

An Investigator's Perspective: **Waste Compliance Investigations and Common Violations**

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Goal

To provide the regulated community an inside perspective of TCEQ investigations so that they may better prepare and achieve compliance.



Overview

- COMPLIANCE INVESTIGATIONS
 - Why and when they occur
 - What to expect and how to prepare
- COMMON VIOLATIONS
- TIPS TO ACHIEVE COMPLIANCE



Why am I being investigated?

- To determine compliance with programmatic rules and regulations
 - *Compliance Evaluation Investigations (CEI)*
 - Industrial & Hazardous Waste, Tires, Used Oil, Petroleum Storage Tanks, etc.
- Two types of investigations
 - Scheduled and Un-scheduled



Scheduled Investigations

- By registration or permitting with the TCEQ, a facility becomes subject to a CEI
 - IHW Generators, MSW Landfills, Scrap Tire Transporters, PST Facilities, Medical Waste
- Generally conducted every 2 to 5 years
- ❖ Notice of a CEI is provided and a schedule is arranged if the facility has a “high” or “average” compliance history rating



Unscheduled Investigations

- On-demand, incident driven investigations
 - Complaints of alleged violations
 - Emergency Responses to spills
 - Initiatives and referrals
- Any follow-up investigation is generally conducted “unannounced”
 - ❖ **No notice is provided to the facility**



Complaint Investigations

- Information received from various sources (public, employees, etc.)
- Initiate an investigation which would address just the alleged violation or spur a full CEI
- Policy is not to reveal the source of the complaint.



Emergency Response

- A reportable spill or discharge could trigger an investigation
 - Example: 1000 gallon fuel spill from an aboveground storage tank would trigger an emergency response investigation and petroleum storage tank (PST) CEI



EPA or TCEQ Initiatives

- Certain industries or SIC codes are targeted for a CEI (“metal finishing”)
- Goal is to identify facilities that are conducting regulated activities and are not currently registered or permitted
- Targeted facilities are identified through database searches



What should I expect during the investigation?

- The investigation process has three distinct phases:



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Facility file review
 - Prior investigations
 - Unresolved violations
 - Submitted reports



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Scheduling the investigation;
 - Between 1 and 14 days notice
 - Set date, time, location
 - Discuss items needed



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Determining applicable regulatory requirements;
 - Which Statutes, Rules, Regulations
- <https://www.tceq.texas.gov/rules/index.pdf.html>



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Researching related RE information;
 - Central Registry

<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=home.welcome>



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Gathering all relevant checklists, publications and guidance;

https://www.tceq.texas.gov/agency/land_main.html



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Gathering all relevant checklists, publications and guidance;
 - Determining sampling Requirements;
 - Determining On-Site Safety Requirements;



PRE-INVESTIGATION PHASE

- Pre-investigation includes:
 - Gathering and preparing or checking equipment;
 - Cameras, rangefinders
 - Personal Protective Equipment (PPE)
 - Monitoring equipment
 - Vehicle Needs (4X4)



INVESTIGATION PHASE

- Investigation includes:
 - Arrival at the site
 - Conducting an Entrance Interview
 - Discuss purpose and scope
 - Policies on photography and records
 - Review all safety and PPE



INVESTIGATION PHASE

- Investigation includes:
 - Conducting a Site Tour
 - Investigate all areas of interest
 - Document with photos
 - Key personnel may be queried
 - Samples may be taken



INVESTIGATION PHASE

- Investigation includes:
 - Conducting Sampling
 - Compliance with regulatory, permit, or authorization limits
 - Unauthorized discharges
 - Waste characterization



INVESTIGATION PHASE

- Investigation includes:
 - Reviewing Site Records
 - Such as operational logs, manifests, waste determinations, required plans, training records, and report summaries



INVESTIGATION PHASE

- Investigation includes:
 - Conducting an Exit Interview
 - Discuss noted issues and/or alleged violations and document to Exit Interview Form



TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Request

Regulated Entity/Site Name				TCEQ Add. ID No. RN No (optional)	
Investigation Type		Contact Made In-House (Y/N)		Purpose of Investigation	
Regulated Entity Contact				Telephone No.	
				FAX #/Email address	
				Date Contacted	
				FAX/Email date	

NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request, identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation issues, include the rule in question with the clearly described potential problem. Other type of issues: fully describe.	
No.	Type ¹	Rule Citation (if known)	Description of Issue

Note 1: Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

POST-INVESTIGATION PHASE

- The Post-Investigation includes:
 - Evaluation of Findings
 - Acquire additional information
 - Consult with supervisors and experienced peers
 - Review guidance



POST-INVESTIGATION PHASE

- The Post-Investigation includes:
 - Documentation of Investigation
 - Write Investigation Report with supporting documentation
 - Complete Enforcement Action Request (EAR)
 - Generate letters (NOV, NOE, GC)



POST-INVESTIGATION PHASE

- The Post-Investigation includes:
 - Finalizing Investigation
 - Investigation is finalized by being signed, approved, copied, and distributed.
 - 60 days to complete



COMMON VIOLATIONS

- Failure to update registration
- Failure to submit annual summary reports
- Failure to properly complete manifests



COMMON VIOLATIONS

- Failure to complete/update
Emergency Preparedness &
Contingency Plan
- Failure to conduct/maintain
Hazardous Waste Determination



COMMON VIOLATIONS

- Failure to maintain Waste Classification Documentation
- Failure to conduct/document inspections
- Failure to label/mark containers
- General Prohibitions/Discharges



What is the #1 P2 Violation?

- Failure to prepare a five-year pollution prevention plan

<https://www.tceq.texas.gov/p2/wrpa/exampleplans.html>



TIPS TO ACHIEVE COMPLIANCE

- Appearance matters - good housekeeping says a lot
- Have records organized and prepared - make copies available
- Know rule requirements and review guidance



TIPS TO ACHIEVE COMPLIANCE

- Request investigation checklists and pre-inspect
- Dedicate the time needed to the investigation
- Have key personnel available



TIPS TO ACHIEVE COMPLIANCE

- Review and update on-line information and databases
- Know photograph policies and make arrangements



QUESTIONS?

